



**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

August 29, 2005

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Joe Renzhou Yao
Joe's Photo Auction
256 St. Nicholas Ave.
Brooklyn, NY 11237

Re: File No. EB-05-SE-350

Dear Mr. Yao:

This is an official **CITATION**, issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended ("Communications Act"), 47 U.S.C. § 503(b)(5), for importing and marketing an unauthorized radio frequency device in the United States in violation of Section 302(b) of the Communications Act, 47 U.S.C. § 302a(b), and Section 2.803(a) of the Commission's Rules ("Rules"), 47 C.F.R. § 2.803(a). As explained below, future violations of the Commission's rules in this regard may subject your company to monetary forfeitures.

By letter dated December 2, 2004,¹ the Spectrum Enforcement Division of the Commission's Enforcement Bureau initiated an investigation into whether Joe's Photo Auction is marketing in the United States unauthorized radio frequency devices, specifically radio-controlled flash trigger units. You responded by letter dated December 12, 2004.² In your response, you indicated that the flash triggers were imported from the Shanghai Jinbei Photographic Equipments Co., Ltd. located in China. You stated that it was your belief that, because Customs cleared the shipment, the use or sale of the product in the United States was permitted.

In subsequent correspondence, the Enforcement Bureau informed you that Customs clearance alone does not indicate that a product has received FCC certification.³ Furthermore, we noted that we were unable to confirm the authorization status of the units.⁴ In reply, you indicated that Joe's Photo Auction has imported a total of 130 radio-controlled flash trigger

¹ See Letter from Kathryn S. Berthot, Deputy Division, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to Renzhou Yao (December 2, 2004).

² See Letter from Joe Renzhou Yao, Owner of Joe's Photo Auction, to Neal McNeil, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (December 12, 2004).

³ See Letter from Kathryn S. Berthot, Deputy Division, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to Joe Renzhou Yao (June 8, 2005).

⁴ *Id.*

units.⁵ You admitted that the units do not bear an FCC label and have not obtained an FCC certification. You also stated that you now understand that the flash trigger units may not be sold in the United States.

Section 302(b) of the Act provides that “[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.” Section 2.803(a)(1) of the Commission’s implementing regulations provides that:

no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless ... [i]n the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter.

Pursuant to Section 15.201(b) of the Rules, 47 C.F.R. § 15.201(b), intentional radiators, such as the radio-controlled flash trigger unit, must be authorized in accordance with the FCC’s certification procedures prior to the initiation of marketing in the United States. Accordingly, it appears that Joe’s Photo Auction has violated Section 302(b) of the Act and Section 2.803(a) of the Rules by importing and marketing in the United States unauthorized radio frequency devices. Finally, we caution you that the marketing of any remaining inventory of the radio-controlled flash trigger units would constitute a further violation of Section 302(b) of the Act and Section 2.803(a) of the Rules.

If, after receipt of this citation, you violate the Communications Act or the Commission’s rules in any manner described herein, the Commission may impose monetary forfeitures not to exceed \$11,000 for each such violation or each day of a continuing violation.⁶

If you choose to do so, you may respond to this citation within 30 days from the date of this letter either through (1) a personal interview at the Commission’s Field Office nearest to your place of business, or (2) a written statement. Your response should specify the actions that you are taking to ensure that you do not violate the Commission’s rules governing the marketing of radio frequency equipment in the future.

The nearest Commission field office is the New York Office in New York, NY. Please call Neal McNeil at 202-418-2408 if you wish to schedule a personal interview. You should schedule any interview to take place within 30 days of the date of this letter. You should send any written statement within 30 days of the date of this letter to:

Kathryn S. Berthot
Deputy Chief, Spectrum Enforcement Division
Enforcement Bureau
Federal Communications Commission

⁵ See Letter from Joe Renzhou Yao, Owner of Joe’s Photo Auction, to Neal McNeil, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (June 28, 2005).

⁶ See 47 C.F.R. § 1.80(b)(3).

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Washington, D.C. 20554

Under the Privacy Act of 1974, 5 U.S.C. § 552(a)(e)(3), we are informing you that the Commission's staff will use all relevant material information before it, including information that you disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Communications Act and the Commission's rules.

The knowing and willful making of any false statement, or the concealment of any material fact, in reply to this citation is punishable by fine or imprisonment under 18 U.S.C. § 1001.

Thank you in advance for your anticipated cooperation.

Sincerely,

Kathryn S. Berthot
Deputy Chief, Spectrum Enforcement Division
Enforcement Bureau
Federal Communications Commission